

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

JAMES LESTER,

Plaintiff,

VS.

No. 10-2138-JPM-dkv

LOGAN'S ROADHOUSE, INC.,

Defendants.

REPORT AND RECOMMENDATION ON PLAINTIFF'S
APPLICATION AND AMENDED APPLICATION
FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

On February 6, 2014, plaintiff James Lester ("Lester"), proceeding *pro se*, filed an application to proceed on appeal without paying fees or costs (ECF No. 83). Lester filed an amended application on February 19, 2014. (ECF No. 84.) The applications were referred to the United States Magistrate Judge for a report and recommendation on July 1, 2014. (ECF No. 91.)

Federal law provides that "any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an [*in forma pauperis*] affidavit." 28 U.S.C. § 1915(a). Under that section, the court must conduct a satisfactory inquiry into the plaintiff's ability to pay the filing fee and prosecute the lawsuit. A plaintiff seeking *in forma pauperis* standing must respond fully to the questions on the court's *in forma pauperis* form and execute the affidavit in compliance with the certification requirements contained in 28 U.S.C. § 1746.

In this case, Lester has submitted a properly completed and executed *in forma pauperis* affidavit. The information set forth in the affidavit satisfies Lester's burden of demonstrating that he is unable to pay the appellate filing fee.

RECOMMENDATION

Accordingly, it is recommended that the application to proceed *in forma pauperis* be granted to allow Lester to proceed on appeal without payment of fees and costs.

Respectfully submitted this 2nd day of July, 2014.

S/ Diane K. Vescovo
Diane K. Vescovo
United States Magistrate Judge

NOTICE

Within fourteen (14) days after being served with a copy of this report and recommended disposition, a party may serve and file written objections to the proposed findings and recommendations. A party may respond to another party's objections within fourteen (14) days after being served with a copy. FED. R. CIV. P. 72(b)(2). Failure to file objections within fourteen (14) days may constitute a waiver of objections, exceptions, and further appeal.